

REMARKS/ARGUMENTS

Status of the Claims

In the Office Action mailed August 9, 2005, claims 1-33 are pending. Claims 1-3 were withdrawn. Claims 4-33 were rejected. The rejection is respectfully traversed. Previously withdrawn claims 1-3 have been cancelled without prejudice or disclaimer. Claims 4-33 have been amended. As such claims 4-33 remain pending. Applicants have thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the references cited therein.

The following remarks are believed to be fully responsive to the Office Action. All the pending claims at issue are believed to be patentable over the cited references. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the following remarks.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance (for all the reasons discussed herein); (b) do not raise any new issues requiring further search and /or consideration; and (c) place the application in better form for appeal (if necessary). No new issues are raised as the amendments merely clarify and/or correct the claims. Accordingly, entry is proper under 37 CFR §1.116.

Claim Rejections – 35. U.S.C. §102(b)

The Examiner rejected claims 4-33 under 35. U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,572,427 to Selfridge, *et al.*, (hereinafter Selfridge).

For anticipation under 35 U.S.C. §102 the reference must teach every aspect of the claimed invention either explicitly or implicitly. Any feature not directly taught must be inherently present (M.P.E.P. 706.02).

Moreover, Selfridge does not teach or suggest, at least, *inter alia*, “a door with temperature control that is configured to close the inner container; a door switch positioned such that it detects the opening of the door, wherein the door switch is electrically connected to an input of a control device that can control a power supply for the at least one controllable heating element,” as recited in claim 4. Selfridge mentions a “door ajar sensor,” and checks to determine if the door is open. (Col. 9 lines 19-23 and Col. 11, lines 42-45). If the door is open, the processor turns off the blower, heaters and the CO₂ valves. (Col. 11, lines 42-45). However, Selfridge does not use the opening of the door to calculate the amount of heat, humidity or gas required to keep the chamber regulated as is presently claimed.

Selfridge does not teach or suggest, at least, *inter alia*, “a humidifier with at least one controllable heating element for an atmosphere of the inner container in the form of a pan holding a water bath, positioned in the floor area of the inner container,” as recited in claim 4. Selfridge is directed to an incubator for biological products where the atmosphere of the incubator can be controlled. (Col. 1, lines 17-24). In particular, the temperature, humidity and the gases present in the incubator can be controlled. (Id.) Selfridge states, “humidification of the chamber atmosphere is accomplished by the provision of a humidifier *outside* the chamber in the recirculation path.” (Col. 3, lines 40-45). (Emphasis added). In fact, the humidifier 67, as shown in FIG. 2 is outside the chamber 13. Thus, Selfridge does not teach or suggest, at least, *inter alia*, “a humidifier with at least one controllable heating element for an atmosphere of the inner container in the form of a pan holding a water bath, positioned in the floor area of the inner container,” as recited in claim 4.

Selfridge discloses an electronic control system that responds to the CO₂ concentration and adds additional CO₂ when necessary. (Col. 7, lines 38-43). In like manner, the required

humidity is maintained. The control system responds to an electrical signal from a float level sensor 97 and supplies additional water as necessary. (Col. 8, lines 20-24). The relative humidity is controlled by controlling the temperature of the water in the tank of the humidifier. (Col. 8, lines 29-31). The water temperature is measured by a temperature probe in the tank coupled to the control system. (Col. 8, lines 40-44). In this manner, the control system regulates the humidity of the chamber. (Col. 8, lines 47-51). At no point does Selfridge regulate the atmosphere within the chamber by the opening of the door. Selfridge just turns off the blower, heaters and the CO₂ valves. (Col. 11, lines 42-45).

Lastly, Selfridge does not teach or suggest, at least, *inter alia*, “the control device is configured to increase a duration of the heating of the controllable heating element based on a time period that the door is open and a time period between at least the last two door openings, to rapidly increase the *humidity*,” as recited in claim 4 (Emphasis Added). Selfridge makes no mention of the time dependency of the atmosphere in the chamber. The length of time the door is open is a factor in the atmosphere of the chamber as the temperature, humidity and gas concentration inside the chamber will be affected by how long the chamber is exposed to the ambient atmosphere. In addition, gas concentrations may be drastically lowered when the door is left open. Furthermore, the variations in temperature, humidity and CO₂ levels may adversely affect the samples inside the chamber. Selfridge does not address the time dependent nature of exposing the chamber contents to the ambient atmosphere external to the chamber.

Since each and every element, as set forth in the claim, is not found, either expressly or inherently described as required by the M.P.E.P., Selfridge cannot be said to anticipate, at least, *inter alia*, “a humidifier with at least one controllable heating element for an atmosphere of the inner container in the form of a pan holding a water bath, positioned in the floor area of the inner

container,” or, “a door with temperature control that is configured to close the inner container; a door switch positioned such that it detects the opening of the door, wherein the door switch is electrically connected to an input of a control device that can control a power supply for the at least one controllable heating element, the control device is configured to increase a duration of the heating of the controllable heating element based on a time period that the door is open and a time period between at least the last two door openings, to rapidly increase the humidity,” as recited in claim 4. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 5-33 depend from independent claim 4. Because claim 4 is believed to be in condition for allowance, claims 5-33 are also believed to be in condition for allowance, at least by reason of their dependency. Accordingly, withdrawal of the rejection is respectfully requested.

Docket No. 87333.2382
Application No. 10/068,947
Customer No. 30734

Special Examination Procedures
Amendment After Final
Under 37 C.F.R. 1.116

CONCLUSION

In view of the foregoing remarks, Applicants respectfully submit that this application is in condition for allowance. Should the Examiner believe that anything further is necessary to place the application in even better condition for allowance, the Examiner is invited to contact the undersigned attorney at 202-861-1746 in an effort to resolve any matter still outstanding before issuing another action.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036 with reference to our Docket No. 87333.2382.

Respectfully submitted,

BAKER & HOSTETLER LLP

A handwritten signature in black ink, appearing to read "Rabiya Kader", is written over the printed name.

Rabiya S. Kader
Reg. No. 48,160

Date: November 2, 2005
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
Telephone: 202-861-1500
Facsimile: 202-861-1783